

annual percentage rate under this part or any DOT alcohol testing rule.

(f) If a railroad is required to conduct random alcohol testing under the alcohol testing rules of more than one DOT agency, the railroad may—

(1) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

(2) Randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the railroad is subject.

[59 FR 7464, Feb. 15, 1994]

§ 219.609 Participation in alcohol testing.

A railroad shall, under the conditions specified in this subpart and subpart H of this part, require a covered employee selected through the random testing program to cooperate in breath testing to determine compliance with § 219.101, and the employee shall provide the required breath and complete the required paperwork and certifications. Compliance by the employee shall be excused only in the case of a documented medical or family emergency.

[59 FR 7464, Feb. 15, 1994]

§ 219.611 Test result indicating prohibited alcohol concentration; procedures.

Procedures for administrative handling by the railroad in the event an employee's confirmation test indicates an alcohol concentration of .04 or greater are set forth in § 219.104.

[59 FR 7464, Feb. 15, 1994]

Subpart H—Procedures and Safeguards for Urine Drug Testing and for Alcohol Testing

§ 219.701 Standards for urine drug testing.

(a) Urine drug testing required or authorized by subparts B, D, F, and G of this part shall be conducted in the manner provided by this subpart and (to the extent not inconsistent with this part) part 40 of subtitle A of this title. Laboratories employed for these

purposes must be certified by the Department of Health and Human Services under that Department's Mandatory Guidelines for Federal Workplace Drug Testing Programs.

(b) Each railroad's contract with a laboratory conducting testing subject to this subpart shall provide that the FRA and the railroad shall have the right to unannounced inspection during normal business hours through qualified personnel or designated contractors. Such inspection rights shall, at minimum, include reasonable accompanied access to all records pertinent to testing under this part, quality control data incident thereto, samples submitted under this part, and equipment and personnel related to analysis of those samples.

(c) Each such contract shall also require that the laboratory comply with all applicable provisions of this part and 49 CFR part 40, including requirements for employee access to specified laboratory records and any applicable conditions imposed upon approvals issued under this subpart or 49 CFR part 40.

§ 219.703 Drug testing procedures.

(a) Urine samples shall be collected and handled as required in 49 CFR part 40 and this section.

(b) The collection site person (collector) shall meet the requirements of 49 CFR part 40.

(c) A person with management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as a collector. For purposes of this paragraph, *co-worker* means a person with whom the person to be tested is assigned or could be assigned in a crew or other working unit to perform normal transportation duties on the railroad.

(d) If an employee fails to provide a urine specimen within a reasonable time and is to be given a subsequent opportunity to provide a specimen under the conditions described in 49 CFR 40.25, the subsequent collection shall be conducted either—

(1) Immediately upon the expiration of the employee's required off-duty period under the Hours of Service Act (45 U.S.C. 62–64b); or